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|---|-------------|----------------------|---------------------------------|-----------------------------|
| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.             | CONFIRMATION NO.            |
| 10/820,924  | 04/08/2004  | Edmund W. Brown      | 328.019                         | 8752                        |
| 23598 7590 01/17/2008<br>BOYLE FREDRICKSON S.C.<br>840 North Plankinton Avenue<br>MILWAUKEE, WI 53203 |             |                      |                                 |                             |
|   |             |                      | EXAMINER<br>KEENAN, JAMES W     |                             |
|   |             |                      | ART UNIT<br>3652                | PAPER NUMBER                |
|   |             |                      | NOTIFICATION DATE<br>01/17/2008 | DELIVERY MODE<br>ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

## Office Action Summary

Application No.

10/820,924

Applicant(s)

BROWN, EDMUND W.

Examiner

James Keenan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,7-12 and 15-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,4, 7-12,15-19 is/are allowed.
- 6) ☒ Claim(s) 20-23 is/are rejected.
- 7) ☒ Claim(s) 24-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Berard (both previously of record) and Epstein (US 5,024,175).

As noted in the previous Office actions, Topper shows a tugger cart with a support frame and a rotatable bed essentially as claimed, including some type of locking mechanism using spring-loaded pins, but does not explicitly show the locking mechanism to include a retractable pin movable along a vertical axis and a locking plate with an aperture for receiving the pin, the locking plate including a horizontal base and diverging ramp plates connecting the base to the lower surface of the bed, wherein the pin engages the ramp plates and the base.

As also noted in the previous Office action, Berard shows a bed supported for rotation on a frame and having means for locking the bed at a selected position, comprising (see figs. 6, 10, 11, and 16-19) a retractable pin 16 operatively connected to the frame and movable along a vertical axis between a retracted position which permits rotation of the bed and an extended position where the pin is received in an aperture 34, 35, 36 of a locking plate 5 connected to the bed, thereby preventing rotation of the bed, wherein the locking plate comprises a horizontal base and a pair of legs 31, 32 interconnecting the base to a lower surface of the bed.

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However, the legs of Berard are not diverging ramp plates with which the pin is engageable. Instead, a separate manually operated lever system is used to engage the pin in the apertures.

Epstein shows in fig. 8 a spring-loaded retractable pin 52 for locking a rotatable platform 24 in position relative to a base 20, wherein the pin engages sloped surfaces 36 (ramp plates) of retaining member 32 (horizontal base) so as to be guided into aperture 34. This is disclosed as an alternative to a pin actuated by a separate mechanism.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Topper with the bed locking structure of Berard, as this would simply be a well known means of allowing the bed to be securely locked in a plurality of desired rotational positions, and to have utilized diverging ramp plates with which the pin would engage, instead of a separate pin engaging mechanism, as these are explicitly taught by Epstein as alternative equivalent structures.

3. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Berard and Epstein, as applied to claim 20 above, and further in view of Thompson (previously cited).

Topper as modified does not show a sliding handle.

As noted in the previous Office actions, Thompson shows a similar cart with a slidable handle.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Topper with a sliding handle, as taught by Thompson, to adjust the size of the cart to accommodate different lengths of articles.

4. Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Berard, Epstein, and Thompson, as applied to claim 21 above, and further in view of Foss et al (previously cited).

As noted in the previous Office actions, Topper as modified by Thompson does not show the handle to comprise upper and lower pivotally connected portions, although it is noted that Thompson shows the handle to have upper and lower slidably connected portions, as well as a horizontal leg portion lockable in a plurality of user desired positions.

As also noted in the previous Office actions, Foss shows a similar apparatus with a handle comprised of upper and lower pivotally connected portions.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Topper with a handle having pivotally connected upper and lower portions, as suggested by Foss, as this would allow the handle to be folded to a non-use position.

5. Claims 1, 3, 4, 7-12, and 15-19 are allowed.

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6. Claims 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Applicant's arguments re claims 20-23 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

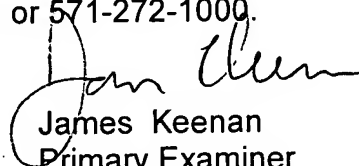
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
James Keenan  
Primary Examiner  
Art Unit 3652

jwk  
1/10/08